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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,679	04/15/2005	Winfried Bunsmann	BU-10PCT	8259
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FRIEDRICH KUEFFNER 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			EXAMINER HERNANDEZ, MICHAEL	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 06/25/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,679	<b>Applicant(s)</b> BUNSMANN, WINFRIED	
	<b>Examiner</b> Mike Hernandez	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because Figure 11 shows two reference number 5's. It is believed that the rightmost 5 should be S5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1 through 22 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains the indefinite limitation "...directly or indirectly..." and should be changed to specifically claim the invention.

Claim 1 recites the limitation "the mounting connection". There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the rearwardly displaced position". There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the extension direction". There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the translational displacement". There is insufficient antecedent basis for this limitation in the claim.

Claim 17 states "the support (S25) or each support (S25)" and does not make sense as written.

Claim 18 recites the limitation "the articulation" throughout the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 22 does not contain any structural limitations and fails to further limit claim 1.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1, 2, 4, 5, 8, 9, and 22 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,768,025 to Spear et al.

Regarding claim 1, Spear et al. discloses a convertible with a roof 32 that is movably supported relative to an automobile body, wherein the roof can be moved at least nearly horizontally between a closed position (Fig 1), in which a front roof section is supported on a windshield frame 26, and an intermediate position (Fig 2), in which the mounting connection between the roof and the windshield frame is released and in which the front roof section can be swiveled upward. The front roof section is considered to be the forward portion of the roof in the vehicle travel direction.

As to claim 2, Spear et al. discloses the roof is supported on lateral main bearings 47 relative to an automobile body, wherein the main bearings can be moved at least nearly horizontally relative to the automotive body and that in the rearwardly displaced position of the roof, the front roof section can be swiveled upward about the main bearings.

As to claim 4, Spear et al. discloses the front roof section is mounted on the windshield frame without locks (Col 1 Ln 3-9), and at least one locking device is assigned to the displaceable main bearings (Col 4 Ln 43-48).

As to claim 5, Spear et al. discloses a positive locking connection can be made between the front roof section and the windshield frame.

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As to claim 8, Spear et al. shows the distance of the horizontal displacement is limited to a roof position in which the front roof section can swivel freely upward without danger of collision with the windshield frame. As seen in Fig 1-3, the track 33 has a horizontal upper portion, where the roof disengages the window frame, and an angled portion, where the roof begins its pivoting movement. The angled section is shown aft of the upper horizontal section.

As to claim 9, Spear et al. discloses the translational displacement of the roof and a roof movement that at least includes a rotational component occur in succession.

As to claim 22, the device of Spear et al. is a convertible roof of a vehicle.

6. **Claims 1 is rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,299,234 to Seel et al.

Seel et al. discloses a convertible with a roof 2 that is movably supported relative to an automobile body, wherein the roof can be moved at least nearly horizontally between a closed position (Fig 1), in which a front roof section is supported on a windshield frame 5, and an intermediate position (Fig 2), in which the mounting connection between the roof and the windshield frame is released and in which the front roof section can be swiveled upward.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. **Claim 3 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Seel et al.

Seel et al. discloses a convertible roof as applied to claim, however fails to specifically state the distance 44 being between 2 and 8 centimeters. It is, however, an obvious expedient to choose whatever distance is needed to disengage the front roof part from the window frame in order to pivot the roof to the open position.

9. **Claims 6 and 7 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Spear et al. in view of US Pat No. 5,636,894 to Kinnanen.

Regarding claim 6, Spear et al. discloses a convertible as applied to claim 1; however fails to disclose pins.

Kinnanen teaches (Col 3 Ln 18-28) pins 6, which are located essentially in the extension direction of the front roof part, are assigned to the front roof section and can fit into complementary recesses of the windshield frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device described by Spear et al. with pins, as taught by Kinnanen, in order to guide the final movement of the front roof section and to fixedly secure the roof in place in the closed position.

As to claim 7, Kinnanen teaches a pin 6 that fits into a 'funnel' shaped recess 7 (claim 5) implying a substantially conical pin. Alternately, it would have been an obvious expedient to shape the pin of Kinnanen to whatever shape was desired.

10. **Claim 10 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Seel et al. in view of US Pat No 6,866,324 to Neubrand et al.

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Seel et al. discloses a convertible as applied to claim 1 previously, including the roof comprising several rigid roof parts 3,4, wherein a rear roof part 4 extends at least between a belt line and a roof part 3 that is located in front of it in the direction of travel and above a passenger compartment.

Seel et al. fails to disclose the rear roof part having a middle section.

Neubrand et al. teaches a rear roof part 126, a roof part 120 located in front of it, and wherein the rear roof part has a middle section 130,154,156, which, in the closed state of the roof, lies between lateral main posts 132,134 and encloses a rear window 130.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device described by Seel et al. with a middle section, as taught by Neubrand et al., in order to pivot the rear window separately from the rear pillars.

***Allowable Subject Matter***

11. **Claims 11 through 21 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

At this instant, the prior art of record fails to show or make obvious the specific limitations of claim 11, including the rear roof and middle sections separately pivoted on the vehicle body having joints that form a multi-joint linkage wherein, at one stage of movement, the joints lie in the same <sup>PLANE</sup> ~~plane~~, necessitating an additional front roof support.



***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References G, H, J, K, and L each discloses similar linkages for rigid roof parts. References A, B, and D disclose similar sliding movements for roofs supported on movable bearings. Specific attention should be paid to Fig 26-29 of reference E, which discloses a short sliding distance to unlock the roof before pivoting movement (see reference character 92).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Hernandez whose telephone number is 571-272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO


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Customer Service Representative or access to the automated information system, call  
800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
MJH 6/20/07

  
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